

# EXHIBIT 3

1 ROSS B. JONES, SBN 120593  
2 Merrill, Arnone & Jones, LLP  
3 3554 Round Barn Boulevard, Suite 303  
Santa Rosa, California 95403  
3 Telephone: (707) 528-2882  
Facsimile: (707) 528-6015

5 Attorneys for Defendants  
HEDMARK VIII, LLC AND  
6 WESTLAND FINANCIAL III, LLC

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DOUGLAS KEANE.

CASE NO. C 07-06074 EMC

Plaintiff,

vs.

HEDMARK VIII, LLC and  
WESTLAND FINANCIAL III, LLC

## **ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT FOR DAMAGES; COUNTERCLAIMS**

**DEMAND FOR JURY TRIAL**

## Defendants.

19 Defendants HEDMARK VIII, LLC and WESTLAND FINANCIAL III, LLC  
20 answer the Complaint of plaintiff DOUGLAS KEANE as follows:

## **FIRST CAUSE OF ACTION**

22       1. Answering paragraph 1, defendants are without information or belief  
23 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 1, and  
24 on that basis, denies those allegations.

25       2. Defendants admit that at all times pertinent to this action HEDMARK VIII,  
26 LLC was a Nevada limited liability company. Defendant denies the remaining allegations  
27 contained therein.

1       3. Defendants admit that at all times pertinent to this action WESTLAND  
2 FINANCIAL III, LLC, was a Nevada limited liability company. Defendant denies the  
3 remaining allegations contained therein.

4       4. Answering paragraph 4, defendants are without information or belief  
5 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 4, and  
6 on that basis, denies those allegations.

7       5. Answering paragraph 5, defendants are without information or belief  
8 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 5, and  
9 on that basis, denies those allegations.

10      6. Answering paragraph 6, defendants are without information or belief  
11 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 6, and  
12 on that basis, denies those allegations.

13      7. Answering the allegations contained in paragraph 7 of the plaintiffs  
14 Complaint, defendants generally and specifically deny each and every, all and singular,  
15 allegation contained therein.

16      8. Answering the allegations contained in paragraph 8 of the plaintiffs  
17 Complaint, defendants generally and specifically deny each and every, all and singular,  
18 allegation contained therein.

19      9. Answering paragraph 9, defendants are without information or belief  
20 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 9, and  
21 on that basis, denies those allegations.

22      10. Answering the allegations contained in paragraph 10 of the plaintiffs  
23 Complaint, defendants generally and specifically deny each and every, all and singular,  
24 allegation contained therein.

25      11. Answering the allegations contained in paragraph 11 of the plaintiffs  
26 Complaint, defendants generally and specifically deny each and every, all and singular,  
27 allegation contained therein.

28

1           12. Answering the allegations contained in paragraph 12 of the plaintiffs  
2 Complaint, defendants generally and specifically deny each and every, all and singular,  
3 allegation contained therein.

4           13. Answering the allegations contained in paragraph 13 of the plaintiffs  
5 Complaint, defendants generally and specifically deny each and every, all and singular,  
6 allegation contained therein.

7           14. Answering the allegations contained in paragraph 14 of the plaintiffs  
8 Complaint, defendants generally and specifically deny each and every, all and singular,  
9 allegation contained therein.

10          15. Answering the allegations contained in paragraph 15 of the plaintiffs  
11 Complaint, defendants generally and specifically deny each and every, all and singular,  
12 allegation contained therein.

13          16. Answering the allegations contained in paragraph 16 of the plaintiffs  
14 Complaint, defendants generally and specifically deny each and every, all and singular,  
15 allegation contained therein.

16          17. Answering the allegations contained in paragraph 17 of the plaintiffs  
17 Complaint, defendants generally and specifically deny each and every, all and singular,  
18 allegation contained therein.

19          18. Answering the allegations contained in paragraph 18 of the plaintiffs  
20 Complaint, defendants generally and specifically deny each and every, all and singular,  
21 allegation contained therein.

22          19. Answering the allegations contained in paragraph 19 of the plaintiffs  
23 Complaint, defendants generally and specifically deny each and every, all and singular,  
24 allegation contained therein.

## **SECOND CAUSE OF ACTION**

20. Although paragraph 19 does not require an answer, defendant incorporates by this reference each of its answers set forth above in response to the allegation contained in paragraph 1 through 19 of the Complaint.

21. Answering paragraph 21, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 21, and on that basis, denies those allegations.

22. Defendants admit that at all times pertinent to this action HEDMARK VIII, LLC was a Nevada limited liability company. Defendant denies the remaining allegations contained therein.

23. Defendants admit that at all times pertinent to this action WESTLAND III was a Nevada limited liability company. Defendant denies the remaining allegations contained therein.

24. Answering paragraph 24, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 24, and on that basis, denies those allegations.

25. Answering paragraph 25, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 25, and on that basis, denies those allegations.

26. Answering paragraph 26, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 26, and on that basis, denies those allegations.

27. Answering the allegations contained in paragraph 27 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

28. Answering the allegations contained in paragraph 28 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29. Answering paragraph 29, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 29, and on that basis, denies those allegations.

30. Answering the allegations contained in paragraph 30 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

31. Answering the allegations contained in paragraph 31 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

32. Answering the allegations contained in paragraph 32 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

33. Answering the allegations contained in paragraph 33 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

34. Answering the allegations contained in paragraph 34 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

35. Answering the allegations contained in paragraph 35 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

36. Answering the allegations contained in paragraph 36 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

37. Answering the allegations contained in paragraph 37 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

38. Answering the allegations contained in paragraph 38 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

39. Answering the allegations contained in paragraph 39 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

### **THIRD CAUSE OF ACTION**

40. Answering the allegations contained in paragraph 40 of the Complaint, defendants reallege and incorporate by reference all of their answers previously made herein for paragraphs 1 through 39 above, as though set forth in their entirety.

41. Answering paragraph 41, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 41, and on that basis, denies those allegations.

42. Defendants admit that at all times pertinent to this action HEDMARK VIII, LLC was a Nevada limited liability company. Defendant denies the remaining allegations contained therein.

43. Defendants admit that at all times pertinent to this action WESTLAND III, LLC was a Nevada limited liability company. Defendant denies the remaining allegations contained therein.

44. Answering paragraph 44, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 44, and on that basis, denies those allegations.

45. Answering paragraph 45, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 45, and on that basis, denies those allegations.

46. Answering paragraph 46, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 41, and on that basis, denies those allegations.

1       47. Answering the allegations contained in paragraph 47 of the plaintiffs  
2 Complaint, defendants generally and specifically deny each and every, all and singular,  
3 allegation contained therein.

4       48. Answering the allegations contained in paragraph 48 of the plaintiffs  
5 Complaint, defendants generally and specifically deny each and every, all and singular,  
6 allegation contained therein.

7       49. Answering paragraph 49, defendants are without information or belief  
8 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 49, and  
9 on that basis, denies those allegations.

10      50. Answering the allegations contained in paragraph 50 of the plaintiffs  
11 Complaint, defendants generally and specifically deny each and every, all and singular,  
12 allegation contained therein.

13      51. Answering the allegations contained in paragraph 51 of the plaintiffs  
14 Complaint, defendants generally and specifically deny each and every, all and singular,  
15 allegation contained therein.

16      52. Answering the allegations contained in paragraph 52 of the plaintiffs  
17 Complaint, defendants generally and specifically deny each and every, all and singular,  
18 allegation contained therein.

19      53. Answering the allegations contained in paragraph 53 of the plaintiffs  
20 Complaint, defendants generally and specifically deny each and every, all and singular,  
21 allegation contained therein.

22      54. Answering the allegations contained in paragraph 54 of the plaintiffs  
23 Complaint, defendants generally and specifically deny each and every, all and singular,  
24 allegation contained therein.

25      55. Answering the allegations contained in paragraph 55 of the plaintiffs  
26 Complaint, defendants generally and specifically deny each and every, all and singular,  
27 allegation contained therein.

28

1       56. Answering the allegations contained in paragraph 56 of the plaintiffs  
2 Complaint, defendants generally and specifically deny each and every, all and singular,  
3 allegation contained therein.

4       57. Answering the allegations contained in paragraph 57 of the plaintiffs  
5 Complaint, defendants generally and specifically deny each and every, all and singular,  
6 allegation contained therein.

7       58. Answering the allegations contained in paragraph 58 of the plaintiffs  
8 Complaint, defendants generally and specifically deny each and every, all and singular,  
9 allegation contained therein.

10       59. Answering the allegations contained in paragraph 59 of the plaintiffs  
11 Complaint, defendants generally and specifically deny each and every, all and singular,  
12 allegation contained therein.

## **FOURTH CAUSE OF ACTION**

14       60. Answering the allegations contained in paragraph 60 of the Complaint,  
15 defendants reallege and incorporate by reference all of their answers previously made  
16 herein for paragraphs 1 through 59 above, as though set forth in their entirety.

17       61. Answering paragraph 61, defendants are without information or belief  
18 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 61, and  
19 on that basis, denies those allegations.

20       62. Defendants admit that at all times pertinent to this action HEDMARK VIII,  
21 LLC was a Nevada limited liability company. Defendant denies the remaining allegations  
22 contained therein.

23       63. Defendants admit that at all times pertinent to this action WESTLAND  
24 FINANCIAL III, LLC was a Nevada limited liability company. Defendant denies the  
25 remaining allegations contained therein

26       64. Answering paragraph 64, defendants are without information or belief  
27 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 64, and  
28 on that basis, denies those allegations.

1       65. Answering paragraph 65, defendants are without information or belief  
2 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 65, and  
3 on that basis, denies those allegations.

4       66. Answering paragraph 66, defendants are without information or belief  
5 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 66, and  
6 on that basis, denies those allegations.

7       67. Answering the allegations contained in paragraph 67 of the plaintiffs  
8 Complaint, defendants generally and specifically deny each and every, all and singular,  
9 allegation contained therein.

10      68. Answering the allegations contained in paragraph 68 of the plaintiffs  
11 Complaint, defendants generally and specifically deny each and every, all and singular,  
12 allegation contained therein.

13      69. Answering paragraph 69, defendants are without information or belief  
14 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 69, and  
15 on that basis, denies those allegations.

16      70. Answering the allegations contained in paragraph 70 of the plaintiffs  
17 Complaint, defendants generally and specifically deny each and every, all and singular,  
18 allegation contained therein.

19      71. Answering the allegations contained in paragraph 71 of the plaintiffs  
20 Complaint, defendants generally and specifically deny each and every, all and singular,  
21 allegation contained therein.

22      72. Answering the allegations contained in paragraph 72 of the plaintiffs  
23 Complaint, defendants generally and specifically deny each and every, all and singular,  
24 allegation contained therein.

25      73. Answering the allegations contained in paragraph 73 of the plaintiffs  
26 Complaint, defendants generally and specifically deny each and every, all and singular,  
27 allegation contained therein.

28

1       74. Answering the allegations contained in paragraph 74 of the plaintiffs  
 2 Complaint, defendants generally and specifically deny each and every, all and singular,  
 3 allegation contained therein.

4       75. Answering the allegations contained in paragraph 75 of the plaintiffs  
 5 Complaint, defendants generally and specifically deny each and every, all and singular,  
 6 allegation contained therein.

7       76. Answering the allegations contained in paragraph 76 of the plaintiffs  
 8 Complaint, defendants generally and specifically deny each and every, all and singular,  
 9 allegation contained therein.

10      77. Answering the allegations contained in paragraph 77 of the plaintiffs  
 11 Complaint, defendants generally and specifically deny each and every, all and singular,  
 12 allegation contained therein.

13      78. Answering the allegations contained in paragraph 78 of the plaintiffs  
 14 Complaint, defendants generally and specifically deny each and every, all and singular,  
 15 allegation contained therein.

16      79. Answering the allegations contained in paragraph 79 of the plaintiffs  
 17 Complaint, defendants generally and specifically deny each and every, all and singular,  
 18 allegation contained therein.

#### FIFTH CAUSE OF ACTION

19      80. Answering the allegations contained in paragraph 80 of the Complaint,  
 20 defendants reallege and incorporate by reference all of their answers previously made  
 21 herein for paragraphs 1 through 79 above, as though set forth in their entirety.

22      81. Answering paragraph 81, defendants are without information or belief  
 23 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 81, and  
 24 on that basis, denies those allegations.

25      82. Defendants admit that at all times pertinent to this action HEDMARK VIII,  
 26 LLC was a Nevada limited liability company. Defendant denies the remaining allegations  
 27 contained therein.

1       83. Defendants admit that at all times pertinent to this action WESTLAND  
2 FINANCIAL VIII, LLC was a Nevada limited liability company. Defendant denies the  
3 remaining allegations contained therein.

4       84. Answering paragraph 84, defendants are without information or belief  
5 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 84, and  
6 on that basis, denies those allegations.

7       85. Answering paragraph 85, defendants are without information or belief  
8 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 85, and  
9 on that basis, denies those allegations.

10       86. Answering paragraph 86, defendants are without information or belief  
11 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 86, and  
12 on that basis, denies those allegations.

13       87. Answering the allegations contained in paragraph 87 of the plaintiffs  
14 Complaint, defendants generally and specifically deny each and every, all and singular,  
15 allegation contained therein.

16       88. Answering the allegations contained in paragraph 88 of the plaintiffs  
17 Complaint, defendants generally and specifically deny each and every, all and singular,  
18 allegation contained therein.

19       89. Answering paragraph 89, defendants are without information or belief  
20 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 89, and  
21 on that basis, denies those allegations.

22       90. Answering the allegations contained in paragraph 90 of the plaintiffs  
23 Complaint, defendants generally and specifically deny each and every, all and singular,  
24 allegation contained therein.

25       91. Answering the allegations contained in paragraph 91 of the plaintiffs  
26 Complaint, defendants generally and specifically deny each and every, all and singular,  
27 allegation contained therein.

28

1           92. Answering the allegations contained in paragraph 92 of the plaintiffs  
2 Complaint, defendants generally and specifically deny each and every, all and singular,  
3 allegation contained therein.

4           93. Answering the allegations contained in paragraph 93 of the plaintiffs  
5 Complaint, defendants generally and specifically deny each and every, all and singular,  
6 allegation contained therein.

7           94. Answering the allegations contained in paragraph 94 of the plaintiffs  
8 Complaint, defendants generally and specifically deny each and every, all and singular,  
9 allegation contained therein.

10          95. Answering the allegations contained in paragraph 95 of the plaintiffs  
11 Complaint, defendants generally and specifically deny each and every, all and singular,  
12 allegation contained therein.

13          96. Answering the allegations contained in paragraph 96 of the plaintiffs  
14 Complaint, defendants generally and specifically deny each and every, all and singular,  
15 allegation contained therein.

16          97. Answering the allegations contained in paragraph 97 of the plaintiffs  
17 Complaint, defendants generally and specifically deny each and every, all and singular,  
18 allegation contained therein.

19          98. Answering the allegations contained in paragraph 98 of the plaintiffs  
20 Complaint, defendants generally and specifically deny each and every, all and singular,  
21 allegation contained therein.

22          99. Answering the allegations contained in paragraph 99 of the plaintiffs  
23 Complaint, defendants generally and specifically deny each and every, all and singular,  
24 allegation contained therein.

25

26

27

28

## **SIXTH CAUSE OF ACTION**

100. Answering the allegations contained in paragraph 100 of the Complaint, defendants reallege and incorporate by reference all of their answers previously made herein for paragraphs 1 through 99 above, as though set forth in their entirety.

101. Answering paragraph 101, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 101, and on that basis, denies those allegations.

102. Defendants admit that at all times pertinent to this action HEDMARK VIII, LLC was a Nevada limited liability company. Defendant denies the remaining allegations contained therein.

103. Defendants admit that at all times pertinent to this action WESTLAND FINANCIAL III, LLC was a Nevada limited liability company. Defendant denies the remaining allegations contained therein.

104. Answering paragraph 104, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 104, and on that basis, denies those allegations.

105. Answering paragraph 105, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 105, and on that basis, denies those allegations.

106. Answering paragraph 106, defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 106, and on that basis, denies those allegations.

107. Answering the allegations contained in paragraph 107 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

108. Answering the allegations contained in paragraph 108 of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

1       109. Answering paragraph 109, defendants are without information or belief  
2 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 109,  
3 and on that basis, denies those allegations.

4       110. Answering the allegations contained in paragraph 110 of the plaintiffs  
5 Complaint, defendants generally and specifically deny each and every, all and singular,  
6 allegation contained therein.

7       111. Answering the allegations contained in paragraph 111 of the plaintiffs  
8 Complaint, defendants generally and specifically deny each and every, all and singular,  
9 allegation contained therein.

10      112. Answering the allegations contained in paragraph 112 of the plaintiffs  
11 Complaint, defendants generally and specifically deny each and every, all and singular,  
12 allegation contained therein.

13      113. Answering the allegations contained in paragraph 113 of the plaintiffs  
14 Complaint, defendants generally and specifically deny each and every, all and singular,  
15 allegation contained therein.

16      114. Answering the allegations contained in paragraph 114 of the plaintiffs  
17 Complaint, defendants generally and specifically deny each and every, all and singular,  
18 allegation contained therein.

19      115. Answering the allegations contained in paragraph 115 of the plaintiffs  
20 Complaint, defendants generally and specifically deny each and every, all and singular,  
21 allegation contained therein.

22      116. Answering the allegations contained in paragraph 116 of the plaintiffs  
23 Complaint, defendants generally and specifically deny each and every, all and singular,  
24 allegation contained therein.

25      117. Answering the allegations contained in paragraph 117 of the plaintiffs  
26 Complaint, defendants generally and specifically deny each and every, all and singular,  
27 allegation contained therein.

28

1       118. Answering the allegations contained in paragraph 118 of the plaintiffs  
2 Complaint, defendants generally and specifically deny each and every, all and singular,  
3 allegation contained therein.

4       119. Answering the allegations contained in paragraph 119 of the plaintiffs  
5 Complaint, defendants generally and specifically deny each and every, all and singular,  
6 allegation contained therein.

## **SEVENTH CAUSE OF ACTION**

8       120. Answering the allegations contained in paragraph 120 of the Complaint,  
9 defendants reallege and incorporate by reference all of their answers previously made  
10 herein for paragraphs 1 through 119 above, as though set forth in their entirety.

11       121. Answering paragraph 121, defendants are without information or belief  
12 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 121,  
13 and on that basis, denies those allegations.

14       122. Defendants admit that at all times pertinent to this action HEDMARK VIII,  
15 LLC was a Nevada limited liability company. Defendant denies the remaining allegations  
16 contained therein.

17       123. Defendants admit that at all times pertinent to this action WESTLAND  
18 FINANCIAL III, LLC was a Nevada limited liability company. Defendant denies the  
19 remaining allegations contained therein.

20        124. Answering paragraph 124, defendants are without information or belief  
21 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 124,  
22 and on that basis, denies those allegations

23        125. Answering paragraph 125, defendants are without information or belief  
24 sufficient form or belief as to the truth or falsity as to the allegations of paragraph 125,  
25 and on that basis, denies those allegations

26        120. (126.) Answering paragraph 120 (126), defendants are without information  
27 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
28 paragraph 120 (126), and on that basis, denies those allegations.

1       121. (127.) Answering the allegations contained in paragraph 121 (127) of the  
2 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
3 singular, allegation contained therein.

4       122. (128.) Answering the allegations contained in paragraph 122 (128) of the  
5 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
6 singular, allegation contained therein.

7       123. (129.) Answering paragraph 123 (129), defendants are without information  
8 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
9 paragraph 123 (129), and on that basis, denies those allegations.

10       124. (130.) Answering the allegations contained in paragraph 124 (130) of the  
11 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
12 singular, allegation contained therein.

13       125. (131.) Answering the allegations contained in paragraph 125 (131) of the  
14 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
15 singular, allegation contained therein.

16       126. (132.) Answering the allegations contained in paragraph 126 (132) of the  
17 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
18 singular, allegation contained therein.

19       127. (133.) Answering the allegations contained in paragraph 127 (133) of the  
20 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
21 singular, allegation contained therein.

22       128. (134.) Answering the allegations contained in paragraph 128 (134) of the  
23 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
24 singular, allegation contained therein.

25       129. (135.) Answering the allegations contained in paragraph 129 (135) of the  
26 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
27 singular, allegation contained therein.

28

1       130. (136.) Answering the allegations contained in paragraph 130 (136) of the  
2 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
3 singular, allegation contained therein.

4        131. (137.) Answering the allegations contained in paragraph 131 (137) of the  
5 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
6 singular, allegation contained therein.

7       132. (138.) Answering the allegations contained in paragraph 132 (138) of the  
8 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
9 singular, allegation contained therein.

10        133. (139.) Answering the allegations contained in paragraph 133 (139) of the  
11 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
12 singular, allegation contained therein.

## **EIGHT CAUSE OF ACTION**

14        134. (140.) Although paragraph 134 (140) does not require an answer, defendant  
15 incorporates by this reference each of its answers set forth above in response to the  
16 allegations contained in paragraphs 1-134 (140).

17        135 (141)      Answering paragraph 135 (141), defendants are without information  
18 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
19 paragraph 135 (141), and on that basis, denies those allegations.

136. (142) Defendants admit that at all times pertinent to this action  
HEDMARK VIII, LLC was a Nevada limited liability company. Defendant denies the  
remaining allegations contained therein.

23 137. (143) Defendants admit that at all times pertinent to this action  
24 WESTLAND FINANCIAL III, LLC was a Nevada limited liability company. Defendant  
25 denies the remaining allegations contained therein.

138. (144.) Answering paragraph 138 (144), defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 138 (144), and on that basis, denies those allegations.

1           139. (145.) Answering paragraph 139 (145), defendants are without information  
2 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
3 paragraph 139 (145), and on that basis, denies those allegations.

4           140. (146.) Answering paragraph 140 (146), defendants are without information  
5 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
6 paragraph 140 (146), and on that basis, denies those allegations.

7           141. (147.) Answering the allegations contained in paragraph 141 (147) of the  
8 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
9 singular, allegation contained therein.

10          142. (148.) Answering the allegations contained in paragraph 142 (148) of the  
11 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
12 singular, allegation contained therein.

13          143. (149.) Answering paragraph 143 (149), defendants are without information  
14 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
15 paragraph 143 (149), and on that basis, denies those allegations.

16          144. (150.) Answering the allegations contained in paragraph 144 (150) of the  
17 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
18 singular, allegation contained therein.

19          145 (151.) Answering the allegations contained in paragraph 145 (151) of the  
20 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
21 singular, allegation contained therein.

22          146. (152.) Answering the allegations contained in paragraph 146 (152) of the  
23 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
24 singular, allegation contained therein.

25          147. (153.) Answering the allegations contained in paragraph 147 (153) of the  
26 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
27 singular, allegation contained therein.

28

148. (154.) Answering the allegations contained in paragraph 148 (155) of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

149. (155.) Answering the allegations contained in paragraph 149 (156) of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

150. (156.) Answering the allegations contained in paragraph 150 (156) of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

151. (157.) Answering the allegations contained in paragraph 151 (157) of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

152. (158.) Answering the allegations contained in paragraph 152 (158) of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

153. (159.) Answering the allegations contained in paragraph 153 (160) of the plaintiffs Complaint, defendants generally and specifically deny each and every, all and singular, allegation contained therein.

## **NINTH CAUSE OF ACTION**

154. (160.) Although paragraph 154 (160) does not require an answer, defendant incorporates by this reference each of its answers set forth above in response to the allegations contained in paragraphs 1-153 (159).

155. (161.) Answering paragraph 156 (161), defendants are without information or belief sufficient form or belief as to the truth or falsity as to the allegations of paragraph 155 (161), and on that basis, denies those allegations

156. (162.) Defendants admit that at all times pertinent to this action HEDMARK VIII, LLC was a Nevada limited liability company. Defendant denies the remaining allegations contained therein.

1       157. (163.) Defendants admit that at all times pertinent to this action  
2 WESTLAND FINANCIAL III, LLC was a Nevada limited liability company. Defendant  
3 denies the remaining allegations contained therein.

4       158. (164.) Answering paragraph 158 (164), defendants are without information  
5 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
6 paragraph 158 (164), and on that basis, denies those allegations.

7       159. (165.) Answering paragraph 159 (165), defendants are without information  
8 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
9 paragraph 159 (165), and on that basis, denies those allegations.

10       160. (166.) Answering paragraph 160 (166), defendants are without information  
11 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
12 paragraph 160 (166), and on that basis, denies those allegations.

13       161. (167.) Answering the allegations contained in paragraph 161 (167) of the  
14 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
15 singular, allegation contained therein.

16       162. (168.) Answering the allegations contained in paragraph 162 (168) of the  
17 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
18 singular, allegation contained therein.

19       163. (169.) Answering the allegations contained in paragraph 163 (169) of the  
20 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
21 singular, allegation contained therein.

22       164. (170.) Answering the allegations contained in paragraph 164 (170) of the  
23 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
24 singular, allegation contained therein.

25       165. (171.) Answering the allegations contained in paragraph 165 (171) of the  
26 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
27 singular, allegation contained therein.

28

1           166. (172.) Answering the allegations contained in paragraph 166 (172) of the  
2 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
3 singular, allegation contained therein.

4           167. (173.) Answering the allegations contained in paragraph 167 (173) of the  
5 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
6 singular, allegation contained therein.

7           168. (174.) Answering the allegations contained in paragraph 168 (174) of the  
8 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
9 singular, allegation contained therein.

10          169. (175.) Answering the allegations contained in paragraph 169 (175) of the  
11 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
12 singular, allegation contained therein.

13          170. (176.) Answering paragraph 170 (176), defendants are without information  
14 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
15 paragraph 170 (176), and on that basis, denies those allegations.

16          171. (177.) Answering paragraph 171 (177), defendants are without information  
17 or belief sufficient form or belief as to the truth or falsity as to the allegations of  
18 paragraph 171 (177), and on that basis, denies those allegations.

19          172. (178.) Answering the allegations contained in paragraph 172 (178) of the  
20 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
21 singular, allegation contained therein.

22          173. (179.) Answering the allegations contained in paragraph 173 (179) of the  
23 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
24 singular, allegation contained therein.

25          174. (180.) Answering the allegations contained in paragraph 174 (180) of the  
26 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
27 singular, allegation contained therein.

28

1           175. (181.) Answering the allegations contained in paragraph 175 (181) of the  
2 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
3 singular, allegation contained therein.

4           176. (182.) Answering the allegations contained in paragraph 176 (182) of the  
5 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
6 singular, allegation contained therein.

7           177. (183.) Answering the allegations contained in paragraph 177 (183) of the  
8 plaintiffs Complaint, defendants generally and specifically deny each and every, all and  
9 singular, allegation contained therein.

10

11           AS SEPARATE AND AFFIRMATIVE DEFENSE(S), defendants allege:

12

**AFFIRMATIVE DEFENSES**

13

First Affirmative Defense  
(Failure to State Claim)

14

15           1.       The Complaint, and each claim for relief, fails to state a claim on which  
relief can be granted.

16

Second Affirmative Defense  
(Preemption)

17

18           2.       Plaintiff's claims are preempted by the provisions of the Copyright Act, 17  
U.S.C section 101 et seq.

20

21

Third Affirmative Defense  
(Estoppel)

22

23           3.       Plaintiff's claims are barred by general principles of estoppel.

24

Fourth Affirmative Defense  
(Waiver)

25

26           4.       Plaintiff's claims are barred by the doctrine of waiver.

27

Fifth Affirmative Defense  
(Unclean Hands)

28

29           5.       Plaintiff's claims are barred by the doctrine of unclean hands.

Sixth Affirmative Defense  
(Consent)

6. Plaintiff's claims are barred by the doctrine of consent.

WHEREFORE, Defendants HEDMARK VIII, LLC and WESTLAND FINANCIAL III, LLC pray for judgment on the Complaint as follows:

1. The plaintiff take nothing by his Complaint and that judgment be entered against these answering defendants on all claims for relief;
2. For defendants' costs of suit including reasonable attorney's fees.
3. For such other and further relief as the court deems just and proper.

DATED: December 5, 2007

MERRILL, ARNONE & JONES, LLP

By:

Ross B. Jones  
Attorney for defendants  
HEDMARK VIII, LLC and  
WESTLAND FINANCIAL III, LLC

## COUNTERCLAIMS

#### Jurisdiction and Venue

1. These Counterclaims, as hereinafter more fully appears, arise under the California Uniform Trade Secrets Act, Calif. Civil Code §3426.1 et. seq., and also asserts related claims under the common law of torts. Jurisdiction is based upon 28 U.S.C. §1337(a). Venue is proper under 28 U.S.C. § 1441(a).

## The Parties

2. Counterclaimant WESTLAND III, LLC is a Nevada, LLC with its principal place of business in Pitkin County, Colorado.

3. Counterclaimant is informed and believes, and based thereon alleges, that Counterdefendant Douglas KEANE is a resident of Sonoma County, California.

11

11

### Transactional Facts

4. Counterclaimant WESTLAND is the owner of the Les Mars Hotel, located in Healdsburg, California.

5. Counterdefendant KEANE is the executive chef of Cyrus Restaurant, which is located within the Les Mars Hotel (“Hotel.”). KEANE is a managing member of Hburg Restaurants, LLC. Hburg Restaurants, LLC is the tenant in a commercial lease with WESTLAND for the operation of Cyrus Restaurant.

6. Atlas Hospitality Group, Inc. (“Atlas”) is a brokerage that specializes in the marketing and sale of hotels in the California market.

7. During or around March, 2007, WESTLAND retained Atlas to ascertain and investigate possible interest in the purchase of the Hotel.

8. Because placing the Hotel on the market, and disclosure of the listing price could potentially adversely effect its ongoing operations, alert competitors, and affect staff and guests, WESTLAND and Atlas undertook efforts to maintain the secrecy of the fact that the Hotel was being placed on the market, along with the secrecy of the listing price for the Hotel.

9. More specifically, the offering prospectus for the hotel ("Prospectus") was only distributed to a limited number of qualified interested persons (numbering less than ten), all of whom were required to sign a nondisclosure agreement prior to receiving the prospectus.

10. Furthermore, the first page of the Prospectus, entitled Confidential Offering Memorandum, contains the header “CONFIDENTIALITY AND DISLCOSURE STATEMENT,” and includes the following:

By acknowledgment of your receipt of this Package, you agree that: its contents are confidential; you will hold and treat it in the strictest of confidence; you will not, directly or indirectly, disclose or permit anyone else to disclose this Package or its contents to any person, firm or entity without prior written authorization of Atlas Hospitality Group; you will not use or permit this Package or its contents to be used in any fashion or manner detrimental to the interest of the Owner of the Property. PHOTOCOPYING

1 OR OTHER DUPLICATION OF ANY PART OF THIS  
2 PACKAGE IS STRICTLY PROHIBITED.

3 A true and correct copy of the first page of the Prospectus is attached  
4 hereto and incorporated by reference as Exhibit A.

5 11. The fact that the Hotel was being placed on the market for sale, and the  
6 Hotel's selling price, had actual or economic value to the Hotel's competitors. These  
7 facts were WESTLAND's valuable trade secrets, and were the subject or reasonable  
8 measures to maintain the secrecy of such information.

9 12. Counterclaimant is informed and believes, and based thereon alleges, that  
10 within the last six months Counterdefendant KEANE obtained the Prospectus through  
11 improper means.

12 13. Counterclaimant is informed and believes, and based thereon alleges, that  
14 Counterdefendant KEANE misappropriated WESTLAND's trade secrets by acquiring the  
15 Prospectus with knowledge or reason to know that the trade secrets were acquired by  
16 improper means; and by disclosure or use of the trade secrets, including but not limited to  
17 filing a Complaint in the Sonoma County Superior Court that identified the Hotel as  
18 being for sale, and identified the sales price of the Hotel in over 70 different paragraphs  
19 of the Complaint.

20 **FIRST CLAIM FOR RELIEF**  
(Misappropriation of Trade Secrets)

21 14. Counterclaimant repeats and realleges each and every allegation contained  
22 in paragraphs 1 through 13 of this Counterclaim, as though fully set forth herein.

23 15. Counterclaimant was in possession of trade secrets consisting, among other  
24 things, of the fact that the Hotel was being offered for sale to select parties, and the  
25 proposed sales price of the Hotel.

26 16. Counterclaimant's trade secrets had actual or prospective economic value to  
27 Counterclaimant's competitors or others who could make use of such information,  
28

including but not limited to the impact of the Hotel's proposed sale at a particular price on the marketing, financial, advertising and sales of the Hotel.

3        17. Counterclaimant took reasonable measures to protect the secrecy of the  
4 information by requiring that any persons who obtained the information sign a  
5 nondisclosure agreement before disclosure of the trade secret information, and by  
6 confirming the secrecy obligations as a condition to receiving the Prospectus that  
7 contained the trade secret information.

8        18. Counterclaimant is informed and believes, and based thereon alleges, that  
9 Counterdefendant KEANE misappropriated WESTLAND's trade secrets by acquiring the  
10 Prospectus with knowledge or reason to know that the trade secrets were acquired by  
11 improper means; and by disclosure or use of the trade secrets, including but not limited to  
12 filing a Complaint in the Sonoma County Superior Court that identified the Hotel as  
13 being for sale, and identified the sales price of the Hotel in over 70 different paragraphs  
14 of the Complaint.

15        19. As a proximate result of the misappropriation of Counterclaimant's trade  
16 secrets, it has been damaged by the disclosure of the Hotel's proposed sale and sales  
17 price, in a sum according to proof.

18       20. Counterclaimant is informed and believes and thereon alleges that the  
19 aforementioned acts of Counterdefendant were willful and malicious. Counterclaimant is  
20 informed and believes that Counterdefendant misappropriated Counterclaimant's trade  
21 secrets with the deliberate intent to injure the Hotel's business. Counterclaimant is  
22 therefore entitled to punitive damages. Counterclaimant is also entitled to reasonable  
23 attorney's fees pursuant to the California Uniform Trade Secrets Act.

**SECOND CLAIM FOR RELIEF**  
(Intentional Interference with Prospective Business Advantage)

26        21. Counterclaimant repeats and realleges each and every allegation contained  
27 in paragraphs 1 through 20 of this Counterclaim, as though fully set forth herein.

1       22. Counterclaimant retained Atlas to discretely market the prospective sale of  
 2 the Hotel to a limited number of qualified potential buyers. Counterclaimant took steps to  
 3 ensure that the fact that the Hotel was being offered for sale, and the proposed sales price,  
 4 did not become publicly available information.

5       23. Counterdefendant KEANE knew of the above described relationship  
 6 existing between Counterclaimant, Atlas and the undisclosed prospective purchasers in  
 7 that KEANE obtained a copy of the confidential Prospectus.

8       24. Counterclaimant is informed and believes, and based thereon alleges, that  
 9 Counterdefendant KEANE misappropriated WESTLAND's trade secrets by acquiring the  
 10 Prospectus with knowledge or reason to know that the trade secrets were acquired by  
 11 improper means; and by disclosure or use of the trade secrets, including but not limited to  
 12 filing a Complaint in the Sonoma County Superior Court that identified the Hotel as  
 13 being for sale, and identified the sales price of the Hotel in over 70 different paragraphs  
 14 of the Complaint, and disclosing that WESTLAND had retained Atlas to seek prospective  
 15 buyers for the Hotel.

16       25. Counterdefendant disclosed these facts with the intent to harm  
 17 WESTLAND financially and to induce Atlas to sever its agency with WESTLAND and  
 18 to further reduce the viability of the Hotel by disclosing the existence of the proposed  
 19 sale of the property.

20       26. Counterdefendant's actions constituted misappropriation of WESTLAND's  
 21 trade secrets as described above.

22       27. Counterdefendant is informed and believes, and based thereon alleges, that  
 23 it suffered economic harm from Counterdefendant's actions in that the wrongful  
 24 disclosure of the above facts has impeded Atlas' ability to market the Hotel, has caused  
 25 rumors and questions within the Hotel's staff and otherwise injured the reputation of the  
 26 Hotel, in a sum according to proof.

27       28. Counterclaimant is informed and believes and thereon alleges that the  
 28 aforementioned acts of Counterdefendant were willful and malicious. Counterclaimant is

1 informed and believes that Counterdefendant's acts were undertaken with the deliberate  
2 intent to injure the Hotel's business. Counterclaimant is therefore entitled to punitive  
3 damages.

4

5 **PRAYER FOR RELIEF**

6 AS TO FIRST CLAIM FOR RELIEF:

7 1. That Counterdefendant KEANE be required to pay Counterclaimant  
8 WESTLAND such damages it has suffered or will suffer by reason of  
9 Counterdefendant's violation of Counterclaimant's rights under the Uniform Trade  
10 Secrets Act.

11 2. That Counterdefendant KEANE be required to pay exemplary damages.

12 3. That Counterclaimant WESTLAND have and recover the costs, including  
13 reasonable attorney's fees, of this civil action.

14 4. That Counterclaimant WESTLAND have such other and further relief as  
15 the Court may deem just and proper.

16 AS TO SECOND CLAIM FOR RELIEF:

17 1. That Counterdefendant KEANE be required to pay Counterclaimant  
18 WESTLAND such damages it has suffered or will suffer by reason of  
19 Counterdefendant's violation of Counterclaimant's rights under the common law.

20 2. That Counterdefendant KEANE be required to pay exemplary damages.

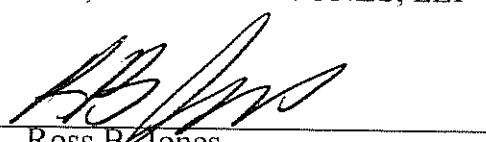
21 3. That Counterclaimant WESTLAND have and recover the costs of this civil  
22 action.

23 4. That Counterclaimant WESTLAND have such other and further relief as  
24 the Court may deem just and proper.

25 Dated: December 3, 2007

MERRILL, ARNONE & JONES, LLP

26 By:  
27

  
Ross B. Jones  
28 Attorneys for Plaintiff

1  
2                   **DEMAND FOR JURY TRIAL**

3                   Defendants and Counterclaimant hereby demands trial by jury.

4 DATED: December 5, 2007

5                   MERRILL, ARNONE & JONES, LLP

6                   By:

7                     
8                   Ross B. Jones  
9                   Attorneys for Defendants and  
10                  Counterclaimant  
11                  HEDMARK VIII, LLC and  
12                  WESTLAND FINANCIAL III,  
13                  LLC

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## **EXHIBIT A**

Confidential Offering Memorandum

**CONFIDENTIALITY AND DISCLOSURE STATEMENT**

**THIS CONFIDENTIAL PROPERTY INFORMATION PACKAGE** (Package) is intended solely for your own limited use in considering the pursuit of negotiations to the Les Mars Hotel (Property) located in Healdsburg, California, and is not intended to be an offer for the sale of the Property.

The Atlas Hospitality Group has prepared this confidential Package, which contains brief, selected information pertaining to the business and affairs of the Property. Any information contained herein is obtained from sources considered reliable. However, neither the Owner of the Property nor Atlas Hospitality Group purport this Package to be all-inclusive or to contain all the information a prospective purchaser may desire. In addition, neither the Owner nor Atlas Hospitality Group is responsible for any misstatement of facts, errors, omissions, prior sale, withdrawal from market, or change in terms, conditions or price without notice. The information supplied herein is for informational purposes only and neither the Owner, nor Atlas Hospitality Group, make any representation or warranty, expressed or implied, as to the accuracy or completeness of this confidential Package or its contents, and no legal liability is assumed or implied with respect thereto. Any person or firm intending to rely upon the information herein should verify said information independently.

By acknowledgment of your receipt of this Package, you agree that: its contents are confidential; you will hold and treat it in the strictest of confidence; you will not, directly or indirectly, disclose or permit anyone else to disclose this Package or its contents to any person, firm, or entity without prior written authorization of Atlas Hospitality Group; you will not use or permit this Package or its contents to be used in any fashion or manner detrimental to the interest of the Owner of the Property. **PHOTOCOPYING OR OTHER DUPLICATION OF ANY PART OF THIS PACKAGE IS STRICTLY PROHIBITED.**

**THE OWNER OF THE PROPERTY EXPRESSLY RESERVES THE RIGHT AT ITS SOLE DISCRETION TO REJECT ANY OR ALL PROPOSALS OR EXPRESSIONS OF INTEREST IN THE PROPERTY AND TO TERMINATE DISCUSSIONS WITH ANY PARTY AT ANY TIME WITH OR WITHOUT NOTICE. THIS PACKAGE SHALL NOT BE DEEMED A REPRESENTATION OF THE STATE OF AFFAIRS OF THE PROPERTY NOR CONSTITUTES AN INDICATION THAT THERE HAS BEEN NO CHANGE IN THE BUSINESS OR AFFAIRS OF THE PROPERTY SINCE THE DATE OF PREPARATION OF THIS PACKAGE. THE PROPERTY WILL BE SOLD ON AN "AS-IS, WHERE-IS" BASIS WITHOUT REPRESENTATION OR WARRANTY.**

If you do not wish to pursue negotiations leading to the acquisition of this Property, or if you discontinue such negotiations, you agree to return this confidential Package to Atlas Hospitality Group. If you do not agree to abide by the terms stipulated in this Statement, please return this Package to Atlas Hospitality Group prior to your review of the information contained herein.